IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.7710 of 2006

Baban Baliram Kalap and ors. Petitioners.
Vs
Shekhar Keshav Yadav and ors. ..Respondents

Mr. K.S.Bapat i/b Avinash Patangare for the petitioners.

Mr.A.K.Jalisatgi with Mr. A.B.Desai for respondent No.1

CORAM: H.S. BEDI, C.J. , &
V.M.KANADE, J.

DATE: 11th December, 2006.

P.C.:-

The petitioners are the members of Shahid Marutirao Jadhav Rikshaw Chalak Malak Trade Union. The petitioner No. 1 Baban Baliram Kalap was elected as the President of the Union for a period of 3 years in 2001. In the meantime respondent no.1 declared himself to be the President of the Union based on a meeting held on 23rd January, 2005. The petitioners thereafter approached the Registrar of Trade Union, and pointed out that respondent no. l was illegally claiming to be the President of the Union. Accordingly the Dy Registrar issued a consent certificate in favour of the petitioners and referred the matter to the Industrial court for decision. The petitioners thereafter filed an application before the Industrial

Court which by its order dated 31st October 2006 Exhibit K to the petition decided the matter against the petitioners. It is against this order that the present petition has been filed.

The learned counsel for the petitioner has pointed out that as per the consent certificate Exhibit B to the petition dated 25th January, 2005 consent had been given to determine as to whether Shri Shekhar Keshav Yadav – respondent no. 1 was the president of the union and an issue in that behalf had been framed by the industrial court, but the reference had been wrongly answered.

After hearing the parties and on going through the record we find merit in the stand taken by the petitioners. We reiterate that the consent certificate was limited to the fact as to whether respondent no.1 was an office bearer of the union but the finding of the industrial court the reference order relates to his membership of the Union. We therefore have no option but to quash the impugned order annexed at Exhibit K to the petition and remand the matter to the industrial court for a fresh decision. We however request the industrial court to take a decision in the matter by 15th of January, 2007 as the evidence etc has been recorded. Petition accordingly stands allowed.

CHIEF JUSTICE.

V.M.KANADE, J.